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International Convention to Facilitate the Crossing of Frontiers for Passengers and Baggage carried by Rail

Convention on the facilitation of border crossing procedures for passengers, luggage and load-luggage carried in international traffic by rail*

Transmitted by the Government of the Russian Federation

In Annex, the secretariat reproduces the full text of the Convention on the facilitation of border crossing procedures for passengers, luggage and load-luggage carried in international traffic by rail as transmitted by the Government of the Russian Federation.

* Changes with regard to document ECE/TRANS/WP.30/2018/6 are in *underlined italics*, deletions are in ~~strikethrough~~

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Annex

Convention on the facilitation of border crossing procedures for passengers, luggage and load-luggage carried in international traffic by rail

The States that are parties to this Convention, hereinafter referred to as the "Parties",

Recognizing the need to facilitate and expedite the crossing of borders in the international carriage by rail of passengers, luggage, and load-luggage, while maintaining the effectiveness of State control,

Given the importance of the safety, convenience, comfort and high quality of passenger service,

Noting the importance of reducing the running times of trains to increase the competitiveness of rail transport,

Have agreed as follows:

Chapter 1
General

Article 1

For the purposes of this Convention, the following terms are used:

(a) "rail transport infrastructure" (hereinafter "infrastructure") means the technical facilities, including the rails and other structures; railway stations; electrical power supply equipment; communication networks; signalling, centralized control and blocking systems; information systems; traffic control system; and other systems ensuring the operation of such buildings, constructions, installations, devices and equipment;

(b) "international carriage by rail" means the carriage of passengers, luggage and load-luggage by rail between two or more railway stations in different States, as well as transportation between the stations of a single State passing through the territory of another State or States;

(c) "passenger" means a physical person that makes a journey by train using a valid travel document (or ticket), or that has a travel document (or ticket) and is boarding or disembarking at a station, including a passenger platform directly prior to or immediately after travel;

(d) "consignor" means a physical person or a legal entity that transfers luggage or load-luggage for carriage and that is stated in the carriage document as the consignor of the luggage or load-luggage;

(e) "carrier" means a legal entity whose business is the carriage of passengers, luggage and load-luggage and that enters with a passenger (or consignor) into a contract of carriage pursuant to which it undertakes to deliver the passenger, the passenger's luggage and load-luggage from a railway station of departure to a railway station of destination;

(f) "railway checkpoint" means an area within the province of a railway station, either at or in the vicinity of a border, or another specifically designated area with appropriate infrastructure and where the State control, operational and administrative

procedures required for the cross-border passing of passengers, luggage and load-luggage are carried out;

(g) "hand luggage" means passenger belongings carried by embarked passengers and whose carriage is included in the cost of travel, not exceeding standard established for weights and dimension, and whose safekeeping is the responsibility of the passenger;

(h) "luggage" means items or objects belonging to a passenger and accepted by a carrier for carriage in a luggage wagon of a passenger train;

(j) "load-luggage" means items accepted by the carrier from a physical person or legal entity in accordance with the procedure for the carriage in a luggage wagon of a passenger train established by the legislation of the Party in whose territory such items are accepted for carriage;

(k) "infrastructure manager" means a legal entity authorized in accordance with the legislation of the Party to provide services to legal entities and (or) physical persons for the use of the infrastructure on the territory of such a Party;

(l) "staff" means employees of the carrier or other organizations aboard the train engaged in passenger service en route;

(m) "State control" means activities carried out by authorized State bodies and officials of the Parties when passengers, luggage or load-luggage cross the border as part of international passenger transport by rail, with the purpose of preventing, detecting and suppressing violations of legislation of the Party, including border, customs, veterinary, quarantine, sanitary, phytosanitary controls and other types of State control established in accordance with legislation of the Parties.

Article 2

This Convention regulates the following matters in relation to international carriage by rail:

(a) Organizing cooperation between the Parties and coordinating the work done by State control authorities to facilitate border crossing;

(b) Defining a set of measures to agree upon conditions for implementing State control, including those for harmonizing the requirements with regard to issuance of documents used during State control, and for State control procedures;

(c) Improving the efficiency of railway checkpoints and reducing the time needed for State controls at the borders;

(d) Organizing coordination of work of representatives of the Parties' border, customs bodies and other State authorities implementing State controls at the border and of the carriers concerned.

Article 3

1. The Parties may conclude bilateral agreements for achieving this Convention's objectives and developing practical mechanisms for its application.

2. The conditions of bilateral agreements may complement and/or clarify the provisions of this Convention and may not contravene its provisions.

3. The provisions of this Convention shall not prevent the application of greater facilities which the Parties grant or may wish to grant either by unilateral provisions or by virtue of bilateral or multilateral agreements provided that such facilities do not impede the application of this Convention's provisions.

4. This Convention shall not affect the rights and obligations resulting from other international agreements in which the Parties participate or from their membership in regional organizations for economic integration.

Article 4

1. The Parties shall cooperate in order to ensure the greatest possible uniformity of requirements for documentation and/or procedures in all areas related to border crossing in international carriage by rail.

2. The Parties shall make every effort to use international standards, new technologies and best practices to improve the performance of railway checkpoints and to facilitate the procedures in all areas connected with border crossing in international rail traffic.

3. The Parties express their willingness to exchange information on practical achievements in improving the efficiency of railway checkpoints and in reducing the time required to carry out State controls.

Article 5

The State control is performed in the following places:

(a) aboard the train in the stop time at the border station;

(b) at the railway checkpoint (or checkpoints) of the Party;

(c) on the train during its movement between the railway checkpoints or between railway stations of the Parties;

(d) partially at the railway checkpoint and partially when the train is moving.

Article 6

1. The State control authorities of the Parties shall carry out agreed upon actions for the control of passengers' documents and their hand luggage, luggage and load-luggage.

2. The location(s) for carrying out State control, its manner, type, procedures and timing standards for handling State control, the passenger data to be transferred to State control authorities shall be established by legislation of the Parties and separate bilateral or multilateral agreements.

3. The Parties may, through separate bilateral and multilateral agreements, agree on nonstop passing of the passenger train in international railway traffic through the railway checkpoints, including the passenger train passing from and into the territory of one Party by transit via the territory of another Party or other Parties, in view of a possibility to provide effective and sufficient State control of passengers, luggage and load-luggage.

4. Responsibility for monitoring compliance with the prohibition on embarking/disembarking of passengers as well as the loading/unloading of luggage (load-luggage) when the passenger train is en route with its nonstop passing through the railway checkpoints and (or) its transit passing via the territory of another Party or other Parties shall rest with the carrier.

Article 7

1. When carrying out State controls, the Parties shall take measures to prevent disruptions in the train schedule.

2. The Parties' infrastructure managers shall promptly exchange information on the train schedule of passenger trains and its changes, composition of sets of passenger trains

implementing international railway transportation as well as cancellation and/or allocation of such trains for subsequent notification to the State control authorities, according to the Parties' legislation and separate bilateral or multilateral agreements.

Article 8

The Parties shall seek to simplify procedures for exchange of documents and information by means of use of electronic data exchange systems when they organize and implement international railway transportation within the scope foreseen by legislation of the Parties and bilateral or multilateral agreements.

Chapter 2
Border crossing by officials of State control authorities and by staff engaged in international carriage by rail

Article 9

Officials of State control bodies shall be exempted from the border crossing formalities when they perform State control activities in international carriage by rail in accordance with the documents that are specified by the Parties.

Article 10

1. The Parties shall seek to facilitate visa procedures and procedures for the crossing of the Parties' borders for train crew members, staff and employees of border (or transfer) stations of the Parties participating in organization and implementation of international carriage by rail, in accordance with positive experience in this field with regard to all applicants.

2. The border crossing procedure shall be determined for the persons listed in the first paragraph of the present article, including specifications of official documents confirming their status, on the basis of bilateral agreements.

Chapter 3
Organization of State control

Article 11

To ensure the orderly and prompt performance of State control, the Parties shall endeavour to observe the following minimum requirements for Railway checkpoints opened for international railway transportation:

(a) Availability of buildings (premises), facilities, equipment and technical means that make it possible to carry out appropriate, daily, round the clock State control at the Railway checkpoints;

(b) Technical equipment of Railway checkpoints and adjacent areas must facilitate State control without disrupting the schedule of passenger trains;

(c) Availability of equipment, devices, information systems and communications systems that make it possible to exchange preliminary information, including that on passenger trains approaching the Railway checkpoints;

(d) Availability of a required number of skilled personnel of the carriers, infrastructure managers, officials of State control authorities at railway checkpoints, taking into account the volume of traffic;

(e) Carrying and traffic capacities of railway points must satisfy traffic volumes;

(f) Railway checkpoints must be equipped with technical facilities and information technology and communications systems to make it possible to receive and apply information on technical inspection and verification of rolling stock, which are carried out by State control authorities and carriers within their remit prior to the arrival of the rolling stock at such checkpoints, unless the Parties implement alternative measures to perform such functions.

Chapter 4
Carrying out State control

Article 12

1. Information on passengers, luggage, and load-luggage crossing the border shall well in advance (as technologically feasible) be transmitted by the carrier to State control authorities (including digital format). During this transmission, restrictions contained in legislation of the transmitting Party shall be taken into consideration. If information to be transmitted has confidentiality (State, commercial, banking or other) safeguarded by legislation of the Party, the train crew members, officials of State control authorities and staff shall undertake obligations not to disclose such information to third parties without the written consent of the person who owns such information or who has the right to use and dispose of it.

2. The State control authorities of the Parties shall exchange information in order to improve the effectiveness of the State control and to select in advance the forms it will take.

Article 13

1. The State control may be carried out jointly by the State control authorities of the Parties in accordance with bilateral agreements.

2. The joint State control may be carried out both in the territory of a Party and aboard the train when it moves in accordance with the provisions of this Convention.

3. The Parties shall agree on the procedures and place(s) where the jointly held State control shall be carried out by concluding separate bilateral or multilateral agreements.

Article 14

1. Without regard to the places where State control may be carried out, the list of which appears in article 5 of the present Convention, if such control does not require the use of stationary applied forms and methods and the Parties have not determined specificity of State control to be conducted by a bilateral agreement, the State control shall be carried out directly in the cars of the train.

2. The carrier shall take measures to make passengers stay at their places as assigned by their travel documents (or tickets) until the end of the State control procedures.

3. When it is necessary to use stationary applied forms and methods of State control as established by the legislation of the Party, such control shall be conducted in specially designated and equipped premises at Railway checkpoints.

4. To ensure safety of passengers, the carrier shall take all possible measures to prevent unauthorized tampering with the structure of the car. In the event that such tampering is discovered, the carrier's staff shall inform officials of State control authorities of the Party in whose territory the train is running.

Article 15

1. The State control aboard the passenger train, when it moves between the Railway checkpoints of the Parties, shall be conducted in accordance with separate bilateral or multilateral agreements between such Parties.

2. In the absence of a separate agreement governing the sequence with which the forms of State control in accordance with paragraph 1 of this Article are to be performed in the territory of one Party, the following sequence shall be applicable:

(a) Customs control and other types of control conducted by State control authorities of the Party of exit;

(b) Border control conducted by State control authorities of the Party of exit;

(c) Border control conducted by State control authorities of the Party of entry;

(d) Customs and other types of control conducted by State control authorities of the Party of entry.

3. Bilateral agreements may determine other sequence of State control and see way for officials of State control authorities of one Party to stay in the territory of another Party.

4. Officials of State control authorities of the Party of entry shall carry out State control only in those parts of the train where State control has already been performed by the officials of State control authorities of the country of exit.

Article 16

1. The Parties shall ensure compliance with the standard timeframes set by bilateral agreements to perform technological operations on reception and transfer of passenger trains at the railway checkpoints, execution of State control, and shall on a permanent basis seek to reduce such standard timeframes by improving operations, introducing new technologies and constantly modernizing them.

2. The Parties shall carry out registration of passenger trains or cars delayed at Railway checkpoints and transmit this information to the Parties concerned, which shall subsequently analyse the situation and propose measures to reduce layovers.

Article 17

1. The Parties shall, on the basis of separate agreements, determine Railway checkpoints located either near the border or in the interior of one of the Parties, in the territory of which the State control is carried out in accordance with item (b) of Article 5 of this Convention.

2. In all cases where such railway checkpoints are determined, separate agreements shall specify the area in which the State control officials of the Parties shall have the right to inspect passengers crossing the Parties' border in any direction as well as their hand luggage, luggage and load-luggage.

3. The area where officials of State control authorities of the Parties have the right to inspect passengers shall typically include:

(a) The buildings, facilities and platforms relating to the railway checkpoint;

(b) Passenger trains.

Article 18

The Parties shall endeavour to arrange for State control to be carried out on passenger trains en route in accordance with item (c) of Article 5 of this Convention, in particular in the following cases:

(a) When the duration of the non-stop run of such trains before and after the Railway checkpoint of each of the bordering Parties is sufficient to carry out the State control procedures;

(b) When the international traffic is carried out with passenger trains that are equipped with automatic gauge changeover systems;

(c) When high-speed rolling stock is used.

Article 19

The Parties shall endeavour to arrange for State control to be carried out partially at a Railway checkpoint and partially during the run of a passenger train in accordance with item (d) of Article 5 of this Convention where the duration of the non-stop run of the train before or after the Railway checkpoint is sufficient to carry out the State control in the territory of only one of the Parties.

Chapter 5
Final clauses

Article 20

The United Nations Economic Commission for Europe shall act as the secretariat of this Convention.

Article 21

1. This Convention shall be open for signature by all States at the United Nations Headquarters in New York from ……..to …….

2. This Convention shall be subject to ratification, acceptance or approval by the signatory States. It shall be open for accession by any State which has not signed the Convention.

3. The instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.

Article 22

1. This Convention shall enter into force three months after the date on which five States have deposited their instruments of ratification, acceptance, approval or accession.

2. For each State that ratifies, accepts, approves or accedes to this Convention after deposit of the fifth instrument of ratification, acceptance, approval or accession, the Convention shall enter into force three months after the date of deposit by such State of its instrument of ratification, acceptance, approval or accession.

Article 23

1. Any Party may denounce this Convention by a formal notification in writing addressed to the Depositary.

2. Denunciation shall become effective six months after the date of receipt by the Depositary of the notification of denunciation.

Article 24

If, after the entry into force of this Convention, the number of Parties is reduced to less than five for a period of twelve consecutive months, the Convention shall cease to have effect from the end of the twelve-month period in question.

Article 25

1. Any dispute between two or more Parties concerning the interpretation or application of this Convention shall, so far as possible, be settled by negotiation between them or by other means of settlement.

2. Any dispute between two or more Parties concerning the interpretation or application of this Convention which cannot be settled by the means indicated in paragraph 1 of this Article shall, at the request of one of the Parties, be referred to an arbitration tribunal composed as follows: each party to the dispute shall appoint an arbitrator, and these arbitrators shall appoint another arbitrator, who shall be the chair. If, three months after receipt of a request, one of the Parties has failed to appoint an arbitrator or if the arbitrators have failed to elect the chair, any of the Parties may request the Secretary-General of the United Nations to appoint an arbitrator or the chair of the arbitration tribunal.

3. The decision of the arbitration tribunal established under the provisions of paragraph 2 of this Article shall be final and binding on the parties to the dispute.

4. The arbitration tribunal shall determine its own rules of procedure.

5. The arbitration tribunal shall take its decisions by majority vote.

6. Any controversy which may arise between the parties to the dispute as regards the interpretation and execution of the award may be submitted by any of such parties for judgment to the arbitration tribunal which made the award.

7. Each party to the dispute shall individually bear the costs of its own appointed arbitrator and of its representatives in the arbitral proceedings; the costs of the chair and the remaining costs shall be borne in equal parts by the parties to the dispute.

Article 26

1. Any Party may, at the time of signing, ratifying, accepting, approving or acceding to this Convention, declare that it does not consider itself bound by Article 25, paragraphs 2 to 7 of this Convention. Other Parties shall not be bound by these paragraphs in respect of any Party, which has entered such a reservation.

2. Any Party, having entered a reservation as provided for in paragraph 1 of this Article, may at any time withdraw such a reservation by notifying the Depositary.

3. Apart from the reservations set out in paragraph 1 of this Article, no reservation to this Convention shall be permitted.

Article 27

1. Any Party may propose an amendment to the present Convention and submit it to the secretariat of the Convention. The secretariat of the Convention shall communicate any proposed amendments to the Parties with a request to be notified whether they favour a conference of Parties for the purpose of considering and deciding upon the proposals. If within four months from the date of such communication at least one third of the Parties

favour such a conference, the secretariat of the Convention shall convene the conference under the auspices of the United Nations Economic Commission for Europe. Any amendment adopted by a majority of two thirds of the Parties present and voting shall be communicated by the Depositary to Parties for their acceptance.

2. An amendment adopted in accordance with paragraph 1 of this Article shall enter into force for all Parties ~~on the thirtieth day~~ *three months* after the number of instruments of acceptance deposited reaches two thirds of the number of States Parties at the date of adoption of the amendment.

~~3. Any instrument of ratification, acceptance, approval or accession deposited after the entry into force of an amendment to this Convention shall be deemed to apply to the Convention as amended.~~

~~4. Any such instrument deposited after an amendment has been accepted in accordance with the procedure in this article, but before it has entered into force, shall be deemed to apply to the Convention as amended on the date when the amendment enters into force.~~

3. Any instrument of ratification, acceptance, approval or accession deposited after an amendment has been accepted in accordance with the procedure in this article, but before it has entered into force, shall be deemed to apply to the Convention as amended on the date when the amendment enters into force.

4. Any such instrument deposited after the entry into force of an amendment to this Convention shall be deemed to apply to the Convention as amended.

Article 28

The Secretary-General of the United Nations is hereby designated as the depositary of this Convention.

In Witness Whereof, the undersigned plenipotentiaries, being duly authorized thereto, have signed this Convention.

Done at _____ on_____ in a single copy in the English, Russian and French languages, the [three] texts being equally authentic.